

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Certification of New Interstate Natural )  
Gas Pipeline Facilities )

Docket No. PL18-1-000  
Docket No. PL18-1-001

**COMMENTS OF  
THE INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA,  
AMERICAN PETROLEUM INSTITUTE, CENTER FOR LIQUIFIED NATURAL  
GAS, GPA MIDSTREAM, AND THE NATURAL GAS SUPPLY ASSOCIATION**

The Federal Energy Regulatory Commission (“Commission”) issued the Updated Policy Statement on Certification of New Interstate Natural Gas Facilities<sup>1</sup> (“Draft Updated CPS”) in 2022 to address what then-Chairman Glick described as “the Commission’s poor record on appeal of natural gas infrastructure proceedings.”<sup>2</sup> The Commission converted the Draft Updated CPS to a draft and invited comments on the Commission’s proposed updates.<sup>3</sup> The threat that the Commission would implement all or part of the Draft Updated CPS has “linger[ed]” ever since, “cast[ing]” a “fog of indecision” “over the development of vital natural gas infrastructure.”<sup>4</sup>

Subsequent court decisions answered the questions posed by the Commission in this proceeding and affirmed that the 1999 Certificate Policy Statement<sup>5</sup> created a sound, bipartisan, legally durable framework for the evaluation of Natural Gas Act certificate applications. The Commission cannot justify the existence of the Draft Updated CPS—

---

<sup>1</sup> *Certification of New Interstate Natural Gas Facilities*, 178 FERC ¶ 61,107 (2022) (“Draft Updated CPS”).

<sup>2</sup> Letter from Chairman Glick to Sen. Sheldon Whitehouse (Aug. 24, 2022).

<sup>3</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 178 FERC ¶ 61,197 (2022).

<sup>4</sup> *Id.*, Danly Dissent at PP 2-3.

<sup>5</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, further clarified, 92 FERC ¶ 61,094 (2000).

and the regulatory uncertainty that a “draft” policy creates—on this record. The Commission should adopt the Department of Energy’s recommendation, affirm the validity of the 1999 Certificate Policy Statement, and close this proceeding without modifying the 1999 Certificate Policy Statement.

## **PARTIES**

INGAA is a trade association that advocates regulatory and legislative positions of importance to the interstate natural gas pipeline industry in the United States. INGAA’s 30 members represent the majority of interstate natural gas transmission pipeline companies in the United States. INGAA’s members, which operate approximately 200,000 miles of interstate natural gas pipelines, serve as an indispensable link between natural gas producers and consumers. Its members’ interstate natural gas pipelines are regulated by the Commission pursuant to the Natural Gas Act (“NGA”).<sup>6</sup>

The American Petroleum Institute (“API”) is a national trade association representing approximately 600 member companies involved in all aspects of the U.S. oil and natural gas industry. API strives to promote safety across industry globally and boost public policy that enables a strong, viable oil and natural gas industry. API’s members include producers, refiners, suppliers, pipeline operators, and liquefied natural gas (“LNG”) exporters, as well as service and supply companies that support all segments of the industry. API advances its policy priorities by collaborating with industry, government and customer stakeholders to promote continued availability of our nation’s abundant oil and natural gas resources for a more secure energy future. API frequently participates in

---

<sup>6</sup> 15 U.S.C. §§ 717-717w.

proceedings before the Commission and other federal agencies, as well as in litigation in state and federal courts.

GPA Midstream has served the U.S. energy industry since 1921. GPA Midstream is composed of approximately 50 corporate members that directly employ over 57,000 employees that are engaged in the gathering, transportation, processing, treating, storage and marketing of natural gas, natural gas liquids, crude oil, and refined products, commonly referred to in the industry as “midstream activities.” In 2023, GPA Midstream members operated 507,000 miles of pipelines, gathered 91 Bcf/d of natural gas, and operated more than 365 natural gas processing facilities.

The Natural Gas Supply Association (“NGSA”) represents integrated and independent energy companies that produce and market domestic natural gas and is the only national trade association that solely focuses on producer-marketer issues related to the downstream natural gas industry. NGSA’s members trade, transact, and invest in the U.S. natural gas market, as well as supply, and ship billions of cubic feet of natural gas per day on interstate pipelines. NGSA members are often anchor shippers on pipeline projects. Therefore, NGSA members are significantly impacted by the outcome of this proceeding.

The Center for Liquefied Natural Gas (“CLNG”) advocates for public policies that advance the use of LNG in the United States, and its export internationally. A committee of the NGSA, CLNG represents the full value chain, including LNG producers, shippers, terminal operators, and developers, providing it with unique insight into the ways in which the vast potential of this abundant and versatile fuel can be fully realized.

## **COMMENTS**

The Commission adopted the Draft Updated CPS in 2022 through a 3-2 party-line vote. The majority maintained that decisions from the United States Court of Appeals for

the District of Columbia Circuit (“D.C. Circuit”) required updates to the Commission’s policy, primarily with respect to the Commission’s analysis of project need and environmental effects.<sup>7</sup> As then-Chairman Glick explained, “revisions to [the Commission’s] 1999 Policy Statement are in order so as to provide greater certainty than now exists because of the Commission’s poor record on appeal of natural gas infrastructure proceedings.”<sup>8</sup>

Subsequent Supreme Court and D.C. Circuit decisions demonstrate that the criticisms of the 1999 Certificate Policy Statement were misguided. These decisions resolved the questions posed by the Commission in this proceeding and affirmed that the 1999 Certificate Policy Statement does not require an update.<sup>9</sup> As dissenters argued at the time the Commission adopted the Draft Updated CPS, the 1999 Certificate Policy

---

<sup>7</sup> See, e.g., Draft Updated CPS at PP 60, 75; Letter from Chairman Glick to Sen. Mitch McConnell (Apr. 14, 2022) (“[The Draft Policy Statements] were in large part a reflection of the fact that a series of appellate court rulings called into question FERC’s previous approach to siting interstate natural gas pipelines and liquefied natural gas facilities.”); Letter from Chairman Glick to Sens. Marco Rubio and Rick Scott (Apr. 18, 2022) (same); Letter from Chairman Glick to Rep. Michael C. Burgess, M.D. (May 26, 2022) (same); Letter from Comm’r Clements to Reps. Cathy McMorris Rodgers and Fred Upton (Mar. 9, 2022) (“[The Draft Policy Statements’] issuance is a precursor to providing project sponsors with increased confidence that the certificates they are granted will hold up to judicial scrutiny.”); *id.* (“[T]he courts have found the Commission’s decision-making during the certificate process deficient, including for inadequate consideration of GHGs and environmental justice concerns, and failure to examine project need closely enough.”); Letter from Comm’r Phillips to Sen. John Barrasso, M.D. (Mar. 1, 2022) (“I voted on [the Draft Policy Statements] so the Commission could act on, and defend, needed infrastructure projects consistent with current law and as quickly as possible.”); *id.* (“Our guidance is intended to bring our authorizations into compliance with federal court mandates and provide clarity on our decision-making.”).

<sup>8</sup> Letter from Chairman Glick to Sen. Sheldon Whitehouse (Aug. 24, 2022).

<sup>9</sup> See, e.g., *Healthy Gulf v. FERC*, 132 F.4th 544 (D.C. Cir. 2025) (“*Driftwood*”); *Citizens Action Coalition of Ind., Inc. v. FERC*, 125 F.4th 229 (D.C. Cir. 2025) (“*Texas Gas*”); *Food & Water Watch v. FERC*, 104 F.4th 336 (D.C. Cir. 2024) (“*East 300*”); *Alabama Municipal Distributors Grp. v. FERC*, 100 F.4th 207 (D.C. Cir. 2024) (“*Evangeline Pass*”); *Sierra Club v. FERC*, 38 F.4th 220 (D.C. Cir. 2022) (“*Southgate*”); *City of Oberlin v. FERC*, 39 F.4th 719 (D.C. Cir. 2022) (“*NEXUS*”); *Delaware Riverkeeper Network v. FERC*, 45 F.4th 104 (D.C. Cir. 2022) (“*Adelphia*”).

Statement remains sound, only the Commission's explanation of how it applied the statement was lacking.<sup>10</sup> For example,

The Commission is an economic, not an environmental regulator. The D.C. Circuit concluded that “nothing in the NGA suggests FERC can prioritize environmental concerns over the primary objective of promoting the development of natural gas markets.”<sup>11</sup> Rather, “Congress charged FERC with the development of natural gas pipelines, not with making local energy decisions or setting national environmental policy.”<sup>12</sup>

Precedent agreements are the best evidence of need for a project, and sufficient standing alone to support a finding of need. The D.C. Circuit reiterated that the Commission “is not ordinarily required to assess a project's benefits by looking beyond the market need reflected by the applicant's existing contracts with shippers”<sup>13</sup> and upheld multiple Commission orders finding need based on precedent agreements.<sup>14</sup>

---

<sup>10</sup> See United States Senate Committee on Energy and Natural Resources, Sept. 28, 2021 Hearing: *A Review of the Administration of Laws under the Jurisdiction of the Federal Energy Regulatory Commission*, Questions for the Record Submitted to the Honorable James Danly, Question 5 from Ranking Member Barasso (quoting testimony from Commissioner Danly) (“In almost all of the cases where FERC has been, in one way or another, remanded, those cases are not because of failures in the NEPA document. They are failures of reasoning under the [APA]. Basically, the Court is saying you did not sufficiently explain the reason why you made this choice: connecting the choice made to the facts found. And so saying that we can fix that problem of APA violations by having different, or more robust, NEPA review is simply not the reality of the remands we have gotten from the courts.”).

<sup>11</sup> *Driftwood*, 125 F.4th at 244-45.

<sup>12</sup> *Id.*

<sup>13</sup> *Adelphia*, 45 F.4th at 114.

<sup>14</sup> *Id.* at 114-15; *East 300*, 104 F.4th at 347 (“[W]e repeatedly have held that such contracts—especially between unaffiliated entities—are ‘good evidence’ of [market] demand.”); *Southgate*, 38 F.4th at 230 (“Here, the long-term agreement shows an actual need for the Project, not an attempt on Mountain Valley’s part to overbuild purely for profit.”); *NEXUS*, 39 F.4th at 729-30 (“FERC explained that, in light of the other benefits of the Nexus Project and the small adverse impacts of the project, the need demonstrated by the 42% subscription rate was enough to justify the pipeline. . . . We find FERC’s independent and alternative reasons for approving the pipeline without considering the export precedent agreements to be reasonable. There is no floor on the subscription rate needed for FERC to find a pipeline is or will be in the public convenience and necessity.”).

NEPA does not require analysis of indirect greenhouse gas emissions from sources outside the Commission’s jurisdiction. The Supreme Court this year provided a “course correction” for the National Environmental Policy Act (“NEPA”) to “to bring judicial review under NEPA back in line with the statutory text and common sense.”<sup>15</sup> The Court emphasized that “agencies are not required to analyze the effects of projects over which they do not exercise regulatory authority.”<sup>16</sup> The D.C. Circuit clarified that the Supreme Court’s decision “shut the courthouse door to NEPA nitpicking in the name of causally attenuated indirect effects.”<sup>17</sup> The Supreme Court’s decision reinforces a long line of D.C. Circuit decisions upholding the Commission’s decision not to analyze speculative effects of greenhouse gas emissions upstream and downstream of a proposed project.<sup>18</sup>

NEPA does not require the Commission to label every environmental effect as “significant” or “insignificant.” NEPA “contains no . . . mandate” “to label the increased emissions and ensuing costs as either significant or insignificant.”<sup>19</sup> NEPA directs agencies to prepare an environmental impact statement if a “major” federal action “significantly” affects the environment, but a label of “significance” “is immaterial where the agency simply prepares the EIS.”<sup>20</sup>

---

<sup>15</sup> *Seven County Infrastructure Coalition v. Eagle County, Co.*, 145 S.Ct. 1497, 1514 (2025).

<sup>16</sup> *Id.* at 1516.

<sup>17</sup> *Sierra Club v. FERC*, 145 F.4th 74, 89 (D.C. Cir. 2025) (“*Connector Pipeline*”) (citing *Seven County*, 145 S.Ct. at 1515).

<sup>18</sup> See, e.g., *Driftwood*, 132 F.4th at 549-50 (upholding FERC’s decision not to consider upstream environmental effects); *East 300*, 104 F.4th at 343-44 (same). See generally *Connector Pipeline*, 145 F.4th at 88-89 (upholding FERC’s decision not to consider upstream environmental impacts; “The [Supreme] Court made clear that in considering the effects of a ‘proposed action’ under NEPA, an ‘agency may draw what it reasonably concludes is a manageable line — one that encompasses the effects of the project at hand, but not the effects of projects separate in time or place.’”) (quoting *Seven County*, 145 S.Ct. at 1517.).

<sup>19</sup> *East 300*, 104 F.4th at 346.

<sup>20</sup> *Id.*

This line of cases shows there is no longer a need for the Draft Updated CPS or for this proceeding, and their continued existence poses a challenge to infrastructure development. Even after the Commission converted the Draft Updated CPS to a draft, opponents of infrastructure development forced courts and pipelines to waste resources litigating the import of the draft statement.<sup>21</sup> Secretary Wright also correctly observes that, until the Commission terminates this proceeding, there is a risk that the Commission will “resurrect” the Draft Updated CPS in the future. Pipelines must account for this possibility given the long process for natural gas infrastructure development. The need to account for radical changes in the Commission’s regulatory framework partway through the application process complicates multiple aspects of project development. The removal of this complication and uncertainty will facilitate natural gas infrastructure development at a time when the United States desperately needs it.<sup>22</sup>

The Draft Updated CPS was ill-conceived from inception, and its continued existence risks harm to the natural gas industry and the homes and businesses that rely on natural gas. Because subsequent events have rendered the Draft Updated CPS wholly unnecessary, the Commission should rescind it and terminate this proceeding.

---

<sup>21</sup> See, e.g., *East 300*, 104 F.4th at 347 (“[T]he Commission later withdrew the policy statement pending further study about what level or kind of threshold might warrant such a classification. Food & Water Watch hints that the withdrawal was arbitrary.”); *Evangeline Pass*, 100 F.4th at 214-15 (holding FERC reasonably declined to assign a significance label after withdrawing its draft policy statement).

<sup>22</sup> See NERC, *2024 Long-Term Reliability Assessment* at 29 (Dec. 2024), <https://tinyurl.com/ak244zec> (observing that, without additional infrastructure, some regions face a real “risk of a shortfall in natural gas pipeline capacity”); ISO-NE, MISO, PJM, SPP, *Strategies for Enhanced Gas-Electric Coordination: A Blueprint for National Progress* at 5, n.1 (Feb. 21, 2024), <https://tinyurl.com/443b9nsb> (“It is essential to emphasize that in certain RTO regions, it remains critically important to expand the existing natural gas infrastructure”); NERC, *2022 Long-Term Reliability Assessment* at 18 (Dec. 2022), <https://tinyurl.com/mfd9z73k> (“additional pipeline infrastructure is needed to reliably serve electric load”).

## CONCLUSION

For the foregoing reasons, INGAA requests that the Commission terminate this proceeding without change to the 1999 Certificate Policy Statement that has provided reasoned, consistent, and predictable review of the over 23,000 miles of major pipeline projects issued certificates by the Commission since its adoption.

Respectfully submitted,

/s/ Joan Dreskin

Joan Dreskin  
Sr. Vice President and General Counsel  
Interstate Natural Gas Association of America  
25 Massachusetts Avenue, NW  
Suite 500N  
202-216-5928  
jdreskin@ingaa.org

/s/ Grace Soderbergh

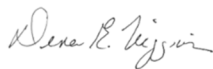
Grace D. Soderberg  
Senior Counsel  
Office of the General Counsel  
American Petroleum Institute  
200 Massachusetts Avenue, NW  
Washington, DC 20001  
202-682-8000  
SoderbergG@api.org



Charlie Riedl  
Executive Director  
CLNG  
900 17th St., NW, Suite 500  
Washington, DC 20006  
charlie.riedl@ngsa.org



Stuart Saulters  
VP, Federal Affairs  
GPA Midstream Association  
6060 S American Plaza St E  
Suite 700  
Tulsa, Oklahoma 74135  
ssaulters@gpamidstream.org



Dena E. Wiggins  
President and CEO  
Natural Gas Supply Association  
900 17th St., NW, Suite 500  
Washington, DC 20006  
dena.wiggins@ngsa.org

DATED: September 9, 2025



## **CERTIFICATE OF SERVICE**

I hereby certify that I have this 9th day of September, 2025, caused to be served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

/s/ Christopher Smith

Christopher Smith

Regulatory Attorney

Interstate Natural Gas Association of America

csmith@ingaa.org